

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESAL PRICE  
LITIGATION

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) MDL No. 1456  
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) Civil Action No. 01-12257-PBS  
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THIS DOCUMENT RELATES TO:  
ALL CLASS ACTIONS

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) Judge Patti B. Saris  
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**WARRICK PHARMACEUTICALS CORPORATION’S MEMORANDUM IN  
OPPOSITION TO PLAINTIFFS’ MOTION FOR LEAVE TO  
JOIN HAROLD BEAN AS A PLAINTIFF AND CLASS REPRESENTATIVE**

Warrick Pharmaceuticals Corporation (“Warrick”) opposes Plaintiffs’ Motion for Leave to Join Harold Bean as a Plaintiff and Class Representative (“Plaintiffs’ Motion”). As a preliminary matter, it is unclear whether Plaintiffs’ Motion applies to Warrick. Plaintiffs’ Motion states that “Mr. Bean is a proposed class representative for, *among other Track 2 Defendants*, Abbott, Amgen, Baxter, Dey, the Fujisawa Group, Pharmacia, and Warrick.” Pls.’ Mot. at 2 (emphasis added). Of course, as this Court and Plaintiffs know, Warrick is a Track 1 Defendant, not a Track 2 Defendant. Whether Plaintiffs intentionally referred to Warrick as a Track 2 Defendant is unclear, and whether Plaintiffs seek leave through this filing to add Mr. Bean as a class representative as to Warrick is likewise unclear.

To the extent that Plaintiffs seek leave to add Mr. Bean as a class representative as to Warrick, Warrick adopts the reasoning set forth in the Track Two Defendants’ Opposition to Plaintiffs’ Motion for Leave to Join Harold Bean as a Plaintiff and Class Representative. With respect to the scant documents that Plaintiffs have produced, no evidence exists whatsoever to

suggest that Mr. Bean was administered and paid for – at least in part – a drug manufactured by Warrick. Whether Plaintiffs’ were attempting to mislead Warrick or the Court by referring to Warrick as a Track 2 defendant or whether they simply made a mistake, Plaintiffs have no support for naming Mr. Bean as a class representative as to Warrick.

For the foregoing reasons, Schering and Warrick respectfully request that Plaintiffs’ Motion be DENIED. Warrick further requests respectfully the opportunity to be heard on Plaintiffs’ Motion, either at the hearing on Plaintiffs’ Motion for Class Certification as to the Track 2 Defendants or at another date directed by the Court.

Warrick Pharmaceuticals Corporation

By its attorneys,

/s/ Eric P. Christofferson

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Dated: May 24, 2006

**CERTIFICATE OF SERVICE**

I hereby certify that on May 24, 2006, I caused a true and correct copy of the foregoing to be served on all counsel of record by electronic service pursuant to Case Management Order No. 2 entered by the Honorable Patti B. Saris in MDL 1456.

/s/ Eric P. Christofferson  
Eric P. Christofferson